

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANELL SMITH,

Petitioner,

Criminal No. 00-80762

Civil No. 04-70961

v.

UNITED STATES OF AMERICA,

Hon. John Corbett O'Meara

Respondent.

**ORDER APPOINTING COUNSEL
AND SCHEDULING EVIDENTIARY HEARING**

On October 30, 2006, the Sixth Circuit issued an order reversing this court's decision to dismiss Petitioner's ineffective assistance of counsel claim as procedurally barred. The court remanded the case so that this court can consider the merits of Petitioner's claim that trial counsel rendered ineffective assistance by not informing him of the details of a plea bargain or advising him whether to accept it. The mandate was issued December 5, 2006.

On July 10, 2007, this court ordered the parties to brief the issue, detailing the factual basis of Petitioner's ineffective assistance of counsel claim in order to assist the court in determining whether an evidentiary hearing is necessary. The court has determined that more information than is currently contained in the record is needed in order to make a determination of facts relevant to a resolution of Petitioner's claim. Therefore, the court orders that an evidentiary hearing be held.

It is further ordered that pursuant to Rule 8 (c) of the Rules Governing Section 2255

Proceedings, counsel shall be appointed under 18 U.S.C. § 3006A to represent the Petitioner for this hearing. The evidentiary hearing will be held on Monday, October 20, 2008, at 10:00 a.m. in Ann Arbor, Michigan. The parties shall make arrangements for Petitioner's appearance at the hearing.

s/John Corbett O'Meara
United States District Judge

Date: September 12, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, September 12, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager